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We, **Mehta & Mehta**, present you with our monthly newsletter which covers regulatory updates, case laws and study articles.

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We hereby release our January 2025 issue.

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SEBI UPDATE – INTRODUCTION OF A MUTUAL FUNDS LITE (MF LITE) FRAMEWORK FOR PASSIVELY MANAGED SCHEMES OF MUTUAL FUNDS

Securities and Exchange Board of India (SEBI) introduced a transformative initiative aimed at promoting passive investment in the Indian mutual fund sector. The new "Mutual Funds Lite" (MF Lite) framework has been designed to cater specifically to passively managed mutual fund schemes, providing a relaxed and simplified regulatory framework compared to traditional actively managed funds.

Categories of Passive Schemes Under the MF Lite Framework

The MF Lite framework will be applicable to a select range of passive mutual fund schemes, primarily those based on equity indices, debt indices, gold and silver ETFs, and certain overseas ETFs. The primary focus will be on schemes that track broad-based indices or established benchmarks, ensuring that the passive funds remain diversified and credible.

The first phase of implementation of the MF Lite framework will cover the following categories of schemes:

Equity Passive Schemes: These are funds that track domestic equity indices, including broad-based indices or benchmarks used by actively managed funds.

Debt Passive Schemes: This includes funds based on government securities (G-Secs), treasury bills (T-bills), state development loans (SDLs), or domestic constant-duration passive debt funds.

Gold and Silver ETFs: These exchange-traded funds invest in gold or silver, offering an easy and liquid way to gain exposure to the commodities.

Overseas ETFs and Funds of Funds (FoFs): These are funds investing in foreign ETFs or funds that track single overseas passive indices.

Additionally, the framework outlines certain quantitative thresholds for these funds, such as a minimum collective Assets Under Management (AUM) of INR 5,000 Crore for domestic equity or debt passive funds. Similarly, overseas equity passive indices must have an AUM of at least $20 billion to qualify under the MF Lite framework.

Link: Introduction of a Mutual Funds Lite (MF Lite) framework for passively managed schemes of Mutual Funds

SEBI UPDATE – CLARIFICATIONS TO CYBERSECURITY AND CYBER RESILIENCE FRAMEWORK (CSCRF) FOR SEBI REGULATED ENTITIES (RES)

Securities and Exchange Board of India issued clarifications regarding its Cybersecurity and Cyber Resilience Framework for regulated entities (REs), offering regulatory forbearance and extending compliance deadlines for certain categories.

With regard to the compliance requirements, which are effective from January 1, 2025, under the framework, regulatory forbearance is provided till March 31, 2025.

During this period, the entities will not face penalties for non-compliance, provided they demonstrate progress in implementing the framework.

Further, the compliance deadline has been extended to April 1, 2025, for KYC registration agencies and depository participants.

Link: Clarifications to Cybersecurity and Cyber Resilience Framework (CSCRF) for SEBI Regulated Entities (REs)

SEBI UPDATE – IMPLEMENTATION OF RECOMMENDATIONS OF THE EXPERT COMMITTEE FOR FACILITATING EASE OF DOING BUSINESS FOR LISTED ENTITIES

Integrated Filing

It has been decided to introduce Integrated Filing, in terms of regulation 10(1A) of the LODR Regulations, for the following Governance and Financial related periodic filings required under the LODR, which shall be applicable for the filings to be done for the quarter ending 31st December 2024 and thereafter:

Integrated Filing (Governance): within 30 days from the end of the quarter1. Reg 13(3) – Statement on redressal of investor grievances2. 27(2)(a) - Compliance Report on Corporate Governance

Integrated Filing (Financial): within 45 days from the end of the quarter, other than the last quarter, and 60 days from the end of the last quarter and the financial year.1. 23(9) – Disclosure of Related Party Transactions (RPTs) 2 Reg. 30 r/w section V-B of the Master Circular Quarterly disclosure of outstanding default on loans / debt securities3 32(1) – Statement of Deviation and Variation4. 33(3) Financial results

The following material events / information shall be disclosed on a quarterly basis in the format specified as part of the Integrated Filing (Governance):

a. Acquisition of shares or voting rights by listed entities in an unlisted company, aggregating to 5% or any subsequent change in holding exceeding 2% in terms of the provisions of Para A(1) of Part A of Schedule III of LODR. b. Imposition of fine or penalty which are lower than the monetary thresholds specified under Para A(20) of Part A of Schedule III of LODR.c. Updates on ongoing tax litigations or disputes in terms of the provisions of Para B(8) of Part A of Schedule III of LODR read with the corresponding provisions of Annexure 18 of the Master Circular

Secretarial Auditor

Clause (a) of regulation 24A(1A) of the LODR Regulations inter-alia states that a person shall be eligible for appointment as a Secretarial Auditor of the listed entity only if such person is a Peer Reviewed Company Secretary and has not incurred any of the disqualifications as specified by the Board.

Further, as per regulation 24A(1B) of the LODR, a Secretarial Auditor appointed under the regulations shall provide to the listed entity only such other services as are approved by the board of directors but which shall not include any services as specified by SEBI in this behalf.

Guidelines for disclosure of Employee Benefit Scheme related documents

Regulation 46(2)(za) of the LODR requires listed entities to disclose Employee Benefit Scheme Documents, excluding commercial secrets and such other information that would affect competitive position, framed in terms of SEBI (SBEB) Regulations, 2021.

Single Filing System

The facility of single filing by listed entities has already been put in place by BSE and NSE w.e.f. October 1, 2024, beginning with the filing of statement on redressal of investor grievances under regulation 13(3) of the LODR Regulations and subsequently extended to corporate governance report under regulation 27(2), reconciliation of share capital audit report and disclosure of voting results under regulation 44(3). Details of other filings to be brought under the single filing system shall be communicated by Stock Exchanges from time to time.

System driven disclosure of certain filings

Stock Exchanges, in consultation with SEBI, shall specify the process, procedure and timelines for system driven disclosure of the following filing / disclosure requirements applicable to listed entities under the LODR Regulations:

1. Regulation 31(1)(b) of LODR - Shareholding Pattern
2. Regulation 30(6) r/w sub-para 3 of para A of part A of schedule III of LODR- New rating(s) or revision in ratings

Link: Implementation of recommendations of the Expert Committee for facilitating ease of doing business for listed entities

SEBI UPDATE – MEASURE FOR EASE OF DOING BUSINESS – SETTLEMENT OF ACCOUNT OF CLIENTS WHO HAVE NOT TRADED IN THE LAST 30 DAYS

SEBI has decided to revise the requirement of mandatory settlement of clients' funds.

Accordingly, it has been decided that the funds of such clients who have not traded in the last 30 calendar days shall be settled on the upcoming settlement dates of monthly running account settlement cycle as notified by Exchanges in the annual calendar issued by them from time to time.

For the clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction and any amount of such client's funds is lying with member for more than such 30 calendar days, the entire credit balance of client shall be returned to the client by TM, on the upcoming settlement dates of monthly running account settlement cycle (irrespective of settlement cycle preferred by the client) as stipulated by stock exchanges.

The provisions of this circular shall come into force with immediate effect.

Link: Measure for ease of doing business – Settlement of Account of Clients who have not traded in the last 30 days

SEBI UPDATE – GUIDELINES FOR INVESTMENT ADVISERS

SEBI has issued Guidelines for Investment Advisers. A person shall be considered eligible for registration as part-time IA if it:

Is a member of ICAI or ICSI or ICMAI providing their statutory services or an insurance agent having license from Insurance Regulatory and Development Authority of India ('IRDAI').

Is professional such as an architect, lawyer, doctor etc.

Is employed as a professor or a teacher etc., or is engaged in education business or activity:

Providing advice or any recommendation, directly or indirectly, in respect of or related to a security or securities, without being registered with or otherwise permitted by the SEBI to provide such advice or recommendation; and

Making any claim, of returns or performance expressly or impliedly, in respect of or related to a security or securities, without being permitted by the SEBI to make such a claim.

The existing IAs shall ensure compliance with the new deposit requirement latest by June 30, 2025. For the new applicants seeking registration as IA, the deposit requirement shall become effective immediately from the date of this circular.

Link: Guidelines for Investment Advisers

SEBI UPDATE – GUIDELINES FOR RESEARCH ANALYSTS

The Securities and Exchange Board of India (SEBI) has taken a significant step towards refining the operational framework for Research Analysts (RAs) by issuing new guidelines. These updates, which came into effect on December 16, 2024, aim to enhance transparency, accountability, and professionalism in research services.

Qualification and Certification Requirements

The revised guidelines clarify that the updated qualification standards apply to new RAs and non-individual research entities. Existing professionals, including principal officers and partners already engaged in research services, are exempt from this mandate. However, partnership firms lacking the prescribed qualifications must transition to a Limited Liability Partnership (LLP) or corporate structure by September 30, 2025.

Compliance Officer Appointment

Non-individual RAs are required to appoint an independent compliance officer who is a member of professional bodies like ICAI, ICSI, or ICMAI and holds certifications in relevant NISM exams. This ensures rigorous adherence to SEBI regulations.

Use of Artificial Intelligence in Research

SEBI emphasizes that RAs leveraging Artificial Intelligence (AI) tools must ensure data security, confidentiality, and integrity. Clients must be informed about the extent of AI usage, starting from the service onboarding stage. Existing clients must receive this disclosure by April 30, 2025.

Fee Structure and Limits

To ensure fairness, SEBI has capped the annual fee chargeable to individual and Hindu Undivided Family (HUF) clients at ₹1,51,000. This limit excludes statutory charges and will be reviewed every three years based on the Cost Inflation Index (CII). Provisions for advance payments and refunds in case of premature service termination are also detailed, ensuring client-friendly practices.

Segregation of Research and Distribution Activities

To avoid conflicts of interest, RAs must segregate research and distribution activities at the client level. Existing clients must choose between these services within the RA's group or family structure, while new clients will have this option at onboarding. Compliance with this guideline is mandated by June 30, 2025.

Model Portfolio Recommendations

For RAs offering model portfolios, SEBI has introduced a structured framework to standardize practices. Compliance with these guidelines and audit requirements is expected by June 30, 2025.

Disclosure of Terms and Conditions

RAs must disclose detailed terms and conditions of their services to clients before initiating any

research services or charging fees. This includes standardized Most Important Terms and Conditions (MITC), ensuring transparency and informed consent.

KYC and Record Maintenance

RAs are required to implement robust Know Your Customer (KYC) procedures and maintain interaction records with clients, including emails, phone recordings, and SMS, for a minimum of five years. For unresolved disputes, records must be preserved until resolution.

Annual Compliance Audits

SEBI mandates annual compliance audits for RAs to ensure adherence to all regulations. These audits will cover all aspects, including model portfolio guidelines, fee structures, and client disclosures.

These new guidelines represent a robust regulatory framework that balances client protection with operational flexibility for Research Analysts. By emphasizing compliance, transparency, and ethical practices, SEBI aims to elevate the credibility and efficiency of research services in India's financial ecosystem. Research Analysts and entities must prioritize aligning their practices with these updated standards to foster trust and innovation in the industry.

Link: SEBI Update – Guidelines for Research Analysts

SEBI UPDATE – PROCEDURE FOR SEEKING WAIVER OR REDUCTION OF INTEREST IN RESPECT OF RECOVERY PROCEEDINGS INITIATED FOR FAILURE TO PAY PENALTY

SEBI has delegated the power to waive or reduce the interest levied only in respect of recovery proceedings initiated for failure to pay penalty, to the Competent Authority provided hereunder:

Panel of Executive Directors of SEBI, where the amount of interest sought to be waived or reduced is less than Rs. 2 crores;

Panel of Whole time Members, in other cases

Further, the Board has approved that the waiver or reduction of interest shall not be applicable in the following cases and the same shall be returned forthwith:

Where interest for failure to remit fees to the Board is levied on the intermediaries in accordance with respective intermediary regulations;

Where the interest on the amount directed to be disgorged or refunded is levied in accordance with the orders passed under section 11, 11B, 11(4) of the SEBI Act.

Link: SEBI Update – Procedure for seeking waiver or reduction of interest in respect of recovery proceedings initiated for failure to pay penalty

SEBI UPDATE – REVISE AND REVAMP NOMINATION FACILITIES IN THE INDIAN SECURITIES MARKET

SEBI released a circular detailing a revised and revamped framework for nomination facilities in demat accounts and mutual fund (MF) folios. This update addresses critical gaps, aims to prevent unclaimed assets, and provides a streamlined process for asset transmission.

The circular, applicable to asset management companies (AMCs), depositories, depository participants, and other stakeholders, is structured into two sections. It reiterates existing norms while introducing enhancements to ensure consistency and ease of implementation across the securities market.

Reinforcing the Rule of Survivorship

Under the rule of survivorship, joint account holders' assets will be transferred to the surviving members upon the death of one or more holders. The surviving members become rightful owners, retaining the ability to manage or modify existing nominations. Importantly:

Joint account operation modes (e.g., "anyone or survivor") remain unaffected.

Existing norms for account operations apply equally to nominations.

This approach balances operational clarity with flexibility for surviving holders.

Addressing Simultaneous Death of Joint Holders

In the rare case of simultaneous demise of all joint account holders:

Assets will be transmitted to the registered nominee(s).

If no nominee exists, assets will go to legal heirs or representatives of the youngest account holder based on intestate succession laws or as per the holder's will.

This ensures a well-defined path for asset distribution, reducing ambiguity and delays.

Provisions for HUF Accounts

For accounts held by a Hindu Undivided Family (HUF), upon the Karta's death:

The new Karta will assume account operations.

In the absence of a new Karta, asset transmission will follow dissolution deeds and applicable legal guidelines.

This addresses unique requirements of HUF accounts, ensuring compliance with traditional and legal norms.

Enhanced Integrity in Nomination Processes

To maintain transparency and authenticity, SEBI has introduced stringent measures:

Nomination forms can be submitted online or offline.

Online submissions require digital or Aadhaar-based e-signatures, or two-factor authentication.

Offline submissions mandate signature verification or, in the case of thumb impressions, witnessing by two individuals.

Regulated entities must acknowledge all nomination-related changes and maintain records for eight years post-transmission.

These measures safeguard the integrity of the nomination process while embracing digital convenience.

Additional Norms for Nomination

SEBI has introduced several investor-centric features:

Mandatory nomination for single accounts; optional for joint accounts.

No restrictions on the frequency of nomination changes.

Inclusion of nominees' details in periodic statements, based on investor preferences.

Pro rata distribution of assets if a nominee predeceases the account holder.

Link: SEBI Update – Revise and Revamp Nomination Facilities in the Indian Securities Market

SEBI UPDATE – DISCLOSURE OF RISK ADJUSTED RETURN – INFORMATION RATIO (IR) FOR MUTUAL FUND SCHEMES.

SEBI has issued directions for Disclosure of Risk adjusted Return Information Ratio (IR) for Mutual Fund Schemes. Mutual Funds/ AMCs shall disclose IR of a scheme portfolio on their website along with performance disclosure, on a daily basis. AMFI shall ensure that such disclosure shall be available on its website in a comparable, downloadable (spreadsheet) and machine readable format. IR disclosure shall be applicable only for equity oriented schemes.

In order to ensure better understandability about IR by investors, adequate steps shall be undertaken by AMCs and AMFI to educate investors about RAR, IR and their significance in scheme performance evaluation. In addition, an allocation shall be earmarked from the budget for investor education, leveraging social/mass media channels to maximize outreach and impact.

Link: SEBI Update – Disclosure of Risk adjusted Return – Information Ratio (IR) for Mutual Fund Schemes.

SEBI UPDATE – TIMELINE FOR REVIEW OF ESG RATING PURSUANT TO OCCURRENCE OF 'MATERIAL EVENTS'

SEBI has issued revised timeline for review of ESG Rating pursuant to occurrence of 'Material Event'. ERPs shall carry out a review of the ESG ratings upon the occurrence of or announcement/ news of such material developments immediately, but not later than 10 days of occurrence of the said event. However, review of the ESG rating pursuant to publication of BRSR by the rated entity shall be carried out immediately, but not later than 45 days of the publication of the BRSR.The shall be applicable with immediate effect.

Link: SEBI Update – Timeline for Review of ESG Rating pursuant to occurrence of 'Material Events'

SEBI UPDATE – DEVELOPMENT OF WEB-BASED PORTAL: ISPOT(INTEGRATED SEBI PORTAL FOR TECHNICAL GLITCHES) FOR REPORTING OF TECHNICAL GLITCHES.

SEBI has stipulated the Standard Operating Procedure for handling of technical glitches by Market Infrastructure Institutions (MIIs) and payment of financial disincentive thereof as follows:
Annexure XI of Chapter 2 of Master Circular dated December 30, 2024 for Stock Exchanges and Clearing Corporations.
Clause 4.70.5.A of SEBI Master Circular for Depositories dated December 03, 2024.

Annexure-ZE of SEBI Master Circular for Commodity Derivatives Segment dated August 04, 2023
In order to streamline the reporting process of technical glitches across MIIs and creation of centralized repository of technical glitches, SEBI has developed a webbased portal, i.e. Integrated SEBI Portal for Technical Glitches (iSPOT), for submission of preliminary and final RCA reports of technical glitches by the MIIs.

This would help to improve the data quality, traceability of historical submissions related to technical glitches at the end of SEBI and MIIs, system generated reports for monitoring of various compliance requirements in a more focused manner and automated intimation to MIIs for submission of RCA report within SEBI defined timelines pursuant to submission of preliminary report by concerned MII. The said portal has been integrated with SEBI Intermediary(SI) portal for ease of access to MIIs.

iSPOT can be accessed by MIIs by using the existing login credentials of SI portal.

In view of the above, Clause 2.2 of Annexure XI of Chapter 2 of SEBI Master Circular dated December 30, 2024, Clause 4.70.5.A.2.2 of SEBI Master Circular dated December 03, 2024 and Clause 2.2 of Annexure–ZE of SEBI Master Circular dated August 04, 2023 has been modified as under: –

The preliminary and RCA report of technical glitch shall be shared by the MII with SEBI through a dedicated web based portal of SEBI viz. iSPOT

The provision of the Circular shall come into force from February 03, 2025.

SEBI Update – Development of Web-based portal: iSPOT(Integrated SEBI Portal for Technical glitches) for reporting of technical glitches.

SEBI UPDATE – FORMAT OF DUE DILIGENCE CERTIFICATE TO BE GIVEN BY THE DTS

SEBI vide notification dated July 10, 2024, amended the SEBI (Issue and Listing of Non Convertible Securities) Regulations, 2021 ('NCS Regulations') inter alia specifying the format of Due diligence certificate to be submitted by the DTs in case of secured and unsecured debt securities.

While Chapter II of Master Circular for DTs specifies the format for due diligence certificate in case of secured debt securities, it does not specify the same in case of unsecured debt securities. In line with the format specified under NCS Regulations, the following is specified in case of unsecured debt securities:

At the time of filing the draft offer document with the stock exchanges, Issuer shall submit to the Stock Exchange, a due diligence certificate obtained from the Debenture Trustee as per the format specified.

At the time of filing of listing application, Issuer shall submit to the Stock Exchange, a due diligence certificate obtained from the Debenture Trustee as per the format specified.

This circular shall be applicable with immediate effect.

SEBI Update – Format of Due Diligence Certificate to be given by the DTs

SEBI UPDATE – DETAILS/CLARIFICATIONS ON PROVISIONS RELATED TO ASSOCIATION OF PERSONS REGULATED BY THE BOARD, MIIS, AND THEIR AGENTS WITH PERSONS ENGAGED IN PROHIBITED ACTIVITIES

Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2024, Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Fourth Amendment) Regulations, 2024 and Securities and Exchange Board of India (Depositories and Participants) (Second Amendment) Regulations, 2024 have been published in the Official Gazette on August 29, 2024.

These regulations inter alia provide that persons regulated by the Board, MIIs (stock exchanges, clearing corporations, depositories), and agents of such persons/MIIs shall not have any direct or indirect association with another person who-

(i) provides advice or any recommendation, directly or indirectly, in respect of or related to a security or securities, unless the person is registered with or otherwise permitted by the Board to provide such advice or recommendation; or

(ii) makes any claim, of returns or performance expressly or impliedly, in respect of or related to a security or securities, unless the person has been permitted by the Board to make such a claim.

The person regulated by the Board (including recognised stock exchanges, clearing corporations and depositories) is required to ensure that any person associated with it or its agent does not engage in the activities mentioned in clauses (i) or (ii) above.

It has been clarified that the term "another person" shall not include a person who is engaged solely in investor education, provided that such a person does not, directly or indirectly, indulge in any activity as referred to in clauses (i) or (ii) above.

In this regard, the details/clarifications on the provisions are provided in the form of frequently asked questions.

SEBI Update – Details/clarifications on provisions related to association of persons regulated by the Board, MIIs, and their agents with persons engaged in prohibited activities

SEBI UPDATE – (1) PARAMETERS FOR EXTERNAL EVALUATION OF PERFORMANCE OF STATUTORY COMMITTEES OF MARKET INFRASTRUCTURE INSTITUTIONS (MIIS); AND (2) MECHANISM FOR INTERNAL EVALUATION OF PERFORMANCE

OF MIIS AND ITS STATUTORY COMMITTEES

SEBI came out with guidelines for the evaluation of the performance of statutory committees of Market Infrastructure Institutions (MIIs) and Mechanism for internal evaluation of Performance of MIIs and its Statutory Committees.
Under the guidelines, MIIs comprising stock exchanges, clearing corporations, and depositories — are required to appoint an independent external agency to evaluate their performance and the functioning of their statutory committees.
Timelines for External Evaluation

The first independent external evaluation shall be only for the Financial Year (FY) 2024-2025. The report of the same shall be submitted to the Governing Board of the MII and SEBI by September 30, 2025.
The subsequent independent external evaluation(s) shall be for a block of next three FYs and so on. Upon completion, a report in this regard shall be submitted to the Governing Board of the MII and SEBI within 6 months from the end of the 3rd FY to be evaluated. Internal Evaluation of Performance of MIIs and its Statutory Committees

The MIIs shall develop the set of criteria for comprehensive internal evaluation of performance of the MII and its Statutory Committees.

The report of the internal evaluation of the MII and its Statutory Committees shall be submitted to the Governing Board of the MII within 3 months from the end of each FY. The first report shall be for FY 2024-25.
The provisions of this Circular shall come into force from 30th day of its issuance.

SEBI Update – (1) Parameters for external evaluation of Performance of Statutory Committees of Market Infrastructure Institutions (MIIs); and (2) Mechanism for internal evaluation of Performance of MIIs and its Statutory Committees

RBI UPDATE – STATUS OF MARCH 30, 2025 FOR GOVERNMENT TRANSACTIONS THROUGH INTEGRATION WITH E-KUBER

It has been decided that e-Kuber will be open for Government transactions on March 30, 2025 so that all the Government transactions through integration with e-Kuber processed on March 30, 2025 are accounted for and the cash balances of Central Government and State Governments are arrived as on March 30, 2025.

Link: RBI Update – Status of March 30, 2025 for Government transactions through integration with e-Kuber

RBI UPDATE – MASTER DIRECTION – RESERVE BANK OF INDIA (CREDIT INFORMATION REPORTING) DIRECTIONS, 2025.

RBI issued Master Direction – Reserve Bank of India (Credit Information Reporting) Directions, 2025.

These Directions shall come into force with immediate effect, unless otherwise specified.

The provisions of these Directions shall be applicable to credit institutions (CIs) and credit information companies (CICs).

"Credit Information Companies (CICs)" means companies that have been granted a certificate of registration under section 5 of the CICRA. The CICs registered with RBI under Section 5 of the CICRA.

"Credit Institutions (CIs)" means the following institutions:

Banks –

All Commercial Banks (including Small Finance Banks, Local Area Banks and Rural Banks, and excluding Payment Banks)

All Primary (Urban) Co-operative Banks, State Co-operative Banks and Central Co-operative Banks

All India Financial Institutions (AIFIs) regulated by the Reserve Bank, viz.,

Export Import Bank of India (EXIM Bank)

National Bank for Agriculture and Rural Development (NABARD)

National Housing Bank (NHB)

6 D. Small Industries Development Bank of India (SIDBI) and

National Bank for Financing Infrastructure and Development (NaBFID)

(iii) All Non-Banking Financial Companies (including Housing Finance Companies)

All Asset Reconstruction Companies (ARCs)

Link: RBI Update – Master Direction – Reserve Bank of India (Credit Information Reporting) Directions, 2025.

RBI UPDATE – FOREIGN EXCHANGE MANAGEMENT (DEPOSIT) (FIFTH AMENDMENT) REGULATIONS, 2025

RBI has notified Foreign Exchange Management (Deposit) (Fifth Amendment) Regulations, 2025.

The following has been stated –

Transfer of funds between repatriable Rupee accounts:-

Notwithstanding anything contained in these regulations, the transfer of funds, for all bona fide transactions, between repatriable Rupee accounts maintained in accordance with these regulations is permitted.

A person resident outside India, having business interest in India, may open a Special Non-Resident Rupee Account (SNRR account), with an authorised dealer in India or its branch outside India for the purpose of putting through permissible current and capital account transactions with a person resident in India in accordance with the rules and regulations framed under the Act, and for putting through any transaction with a person resident outside India.

Explanation: A unit in an International Financial Services Centre (IFSC) under section 18 of the Special Economic Zones Act, 2005 may open an SNRR account with an authorised dealer in India (outside IFSC) for its business related transactions outside IFSC.

Link: RBI Update – Foreign Exchange Management (Deposit) (Fifth Amendment) Regulations, 2025

RBI UPDATE – FOREIGN EXCHANGE MANAGEMENT (FOREIGN CURRENCY ACCOUNTS BY A PERSON RESIDENT IN INDIA) (FIFTH AMENDMENT) REGULATIONS, 2025

These regulations may be called the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Fifth Amendment) Regulations, 2025.

The following has been stated :-

In regulation 5, after sub-regulation (C) the following sub-regulation (CA) shall be inserted, namely:-

A person resident in India, being an exporter, may open, hold and maintain a Foreign Currency Account with a bank outside India, for realisation of full export value and advance remittance received by the exporter towards export of goods or services. Funds in this account may be utilised by the exporter for paying for its imports into India or repatriated into India within a period not exceeding the end of the next month from the date of receipt of the funds after adjusting for forward commitments, provided that the realisation and repatriation requirements as specified in Regulation 9 of Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 are also met."

Link: Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Fifth Amendment) Regulations, 2025

RBI UPDATE – GOVERNMENT DEBT RELIEF SCHEMES (DRS)

Prudential treatment in respect of Government Debt Relief Schemes (DRS)

Participation in the DRS

REs may decide on participating in a particular DRS notified by a Government, based on its Board approved policy, subject to the extant regulatory norms. Any provision of the scheme that may warrant modification in long term interest of the borrowers or for prudential reasons may be duly brought to the notice of the concerned authority/ies through the State Level Bankers' Committee (SLBC)/ District level Consultative Committee (DCC), during the consultation phase while designing the DRS.

The REs shall clearly determine the eventual outstanding that may crystallise in their books in respect of the borrowers proposed to be covered under the DRS, including the accumulated interest in non-performing accounts, by the time the dues are settled under the DRS, to enable the Government to suitably arrange for the extent of fiscal participation.

Coverage / Selection of Borrowers under DRS

The REs shall ensure that the borrowers to be covered under DRS are selected strictly as per terms of such schemes so as to avoid subsequent non-admission by the authorities on technical grounds.

The terms and conditions of the scheme as well as the prudential aspects, including cooling period for extending fresh credit, impact on credit score etc., shall be clearly communicated to the borrowers at the time of obtaining explicit consent from the borrower for availing benefits under the proposed DRS.

Model Operating Procedure Government Debt Relief Schemes (DRS)

Coverage and Meaning

For the purpose of the Model Operating Procedure (MOP), Debt Relief Schemes (DRS) refer to Schemes notified by the State Governments that entail funding by the fiscal authorities to cover debt obligations of a targeted segment of borrowers that the lending institutions are required to sacrifice/waive.

Announcement / notification of any such DRS should include the specific stress or distress situation necessitating announcement of such support. Given the broader implications of such DRS for the credit culture, while broad based relief measures can be addressed through pure fiscal support in the form of Direct Benefit Transfer (DBT), DRS should be considered only as a measure of last resort when other measures to alleviate financial stress have failed.

Link: RBI Update – Government Debt Relief Schemes (DRS)

RBI UPDATE – FOREIGN EXCHANGE MANAGEMENT (MODE OF PAYMENT AND REPORTING OF NON- DEBT INSTRUMENTS) (THIRD AMENDMENT) REGULATIONS, 2025

These Regulations may be called the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) (Third Amendment) Regulations, 2025.In the principal regulations, in regulation 3.1, for the existing provision at Sl. No. I, II, VI, VII, VIII and IX the following shall be substituted, namely:

1. Schedule I – Investment by a Person Resident Outside India in Equity Instruments

Mode of Payment:

Consideration must be received as an inward remittance through banking channels or from a repatriable foreign currency or Rupee account under FEMA (Deposit) Regulations, 2016.
Consideration includes:
Issue of equity shares against any funds payable by the Indian company.
Swap of equity instruments.

Remittance of Sale Proceeds:

Proceeds (net of taxes) can be remitted abroad or credited to the investor's repatriable foreign currency or Rupee account.

2. Schedule II – Investment by Foreign Portfolio Investors (FPIs)

Mode of Payment:

Investment to be made through an inward remittance or from a foreign currency account or Special Non-Resident Rupee (SNRR) account under FEMA (Deposit) Regulations, 2016.
Remittance of Sale Proceeds:

Sale proceeds (net of taxes) can be remitted abroad or credited to the FPI's foreign currency or SNRR account.
3. Schedule VI – Investment in a Limited Liability Partnership (LLP)

Mode of Payment:

Capital contribution must be made through an inward remittance or from a repatriable foreign currency or Rupee account.
Remittance of Disinvestment Proceeds:

Proceeds from disinvestment can be remitted abroad or credited to the investor's repatriable foreign currency or Rupee account.

4. Schedule VII – Investment by a Foreign Venture Capital Investor (FVCI)
Mode of Payment:
Investment to be made via inward remittance, foreign currency account, or SNRR account.
The foreign currency account can only be used for transactions under this schedule.

Remittance of Sale/Maturity Proceeds:

Sale/maturity proceeds (net of taxes) can be remitted abroad or credited to the investor's foreign currency or SNRR account.

5. Schedule VIII – Investment by a Person Resident Outside India in an Investment Vehicle

Mode of Payment:

Investment can be made via inward remittance, swap of shares of a Special Purpose Vehicle (SPV), or repatriable foreign currency/Rupee account.

Remittance of Sale/Maturity Proceeds:

Proceeds (net of taxes) can be remitted abroad or credited to the investor's repatriable foreign currency or Rupee account.

6. Schedule X – Investment in Indian Depository Receipts (IDRs)

Mode of Payment:

NRIs/OCIs: Can invest through their NRE/FCNR(B) account.

FPIs: Can invest through their foreign currency or SNRR account.

Remittance of Sale/Maturity Proceeds:

Redemption/conversion of IDRs into underlying equity shares must comply with FEMA (Overseas Investment) Rules, 2022.

Link: RBI Update – Foreign Exchange Management (Mode of Payment and Reporting of Non- Debt Instruments) (Third Amendment) Regulations, 2025

RBI UPDATE – COVERAGE OF CUSTOMERS UNDER THE NOMINATION FACILITY

It is observed that in a large number of deposit accounts, nomination is not available. To avoid inconvenience and undue hardship to survivors/ family members of deceased depositors, we reiterate the need to obtain nomination in case of all existing and new customers having deposit accounts, safe custody articles and safety lockers, as the case may be.The Customer Service Committee (CSC) of the Board/ Board of Directors shall review, on a periodic basis, the achievement of nomination coverage. Progress in this regard shall be reported by the SEs in Reserve Bank's DAKSH portal on a quarterly basis starting from March 31, 2025.

Link: RBI Update – Coverage of customers under the nomination facility

RBI UPDATE – PREVENTION OF FINANCIAL FRAUDS PERPETRATED USING VOICE CALLS AND SMS – REGULATORY PRESCRIPTIONS AND INSTITUTIONAL SAFEGUARDS

The proliferation of digital transactions, while offering convenience and efficiency, has also led to a surge in frauds, a pressing concern underscoring the need for concerted action.

The mobile number of a customer has emerged as a ubiquitous identifier, instrumental in account authentication and verification process, receiving sensitive payment communication, such as OTPs, transaction alerts, account updates, etc. The mobile number, however, can also be misused by scamsters in multiple ways for committing various types of online and other frauds.

To mitigate the potential misuse of mobile numbers, Regulated Entities (REs) are advised to:

Utilize the Mobile Number Revocation List (MNRL)1 available on the Digital Intelligence Platform (DIP) developed by Department of Telecommunications (DoT), Ministry of Communications, Government of India to monitor and clean their customer database. To enhance fraud risk monitoring and prevention, the REs are advised to develop Standard Operating Procedures (SOP) incorporating the required action to be taken including, inter alia, updating the registered mobile number(RMN) after due verification; enhanced monitoring of accounts linked to these revoked mobile numbers for preventing the linked accounts from being operated as Money Mules and / or being involved in cyber frauds, etc.

Provide the verified details of their customer care numbers to DIP for enabling DoT to publish them on the "Sanchar Saathi" portal (https://sancharsaathi.gov.in/). The details may be shared on the DoT email adg.diu-dot@gov.in

Undertake transactional / service calls only using '1600xx' numbering series, when operationalized; undertake promotional voice calls only through phone numbers using '140xx' numbering series; follow the "Important Guidelines for sending commercial communication using telecom resources through Voice Calls or SMS" issued by Telecom Regulatory Authority of India (TRAI). REs are also advised to undertake awareness measures in this regard through emails, SMS and other modes, including in vernacular languages.

All REs are advised to ensure compliance with the above instructions expeditiously, in any case not later than March 31, 2025.

Link: RBI Update – Prevention of financial frauds perpetrated using voice calls and SMS – Regulatory prescriptions and Institutional Safeguards

RBI UPDATE – GUIDELINES ON SETTLEMENT OF DUES OF BORROWERS BY ARCS

Policy Framework
ARCs must have a Board-approved policy covering:
Eligibility criteria for one-time settlements.
Permissible sacrifices for different exposure categories.
Methodology for determining the realizable value of securities.
Conditions for Settlement
Settlement is permissible only after exploring all recovery options and when it is the best alternative.
The settlement amount's Net Present Value (NPV) should not be less than the realizable value of securities unless reasons for significant differences are documented.
Payment Terms
Preferably, settlements should be paid in a lump sum.
If instalments are allowed, they must align with a viable business plan, including projected earnings and cash flows.
High-Value Settlements (Over ₹1 Crore)
Independent Advisory Committee (IAC): Settlement proposals must be assessed by an IAC comprising professionals in technical, finance, or legal fields.
Board Approval: The Board or a designated committee, including at least two independent directors, must review the IAC's recommendations and record detailed rationale in meeting minutes.
Low-Value Settlements (₹1 Crore or Below)
Conflict of Interest: Officials involved in the asset acquisition cannot participate in settlement decisions.
Reporting: A quarterly report must be presented to the Board, covering trends, fraud/wilful default classifications, and recovery timelines.
Fraud and Wilful Default Cases
Settlements involving fraud or wilful defaulters must follow the guidelines for high-value settlements.
Criminal proceedings against such borrowers remain unaffected.
Legal Provisions
Settlements are subject to other prevailing statutes.
For cases under judicial proceedings, settlements require a consent decree from the concerned judicial authority.

Link: RBI Update – Guidelines on Settlement of Dues of borrowers by ARCs

RBI UPDATE – PRIVATE PLACEMENT OF NON-CONVERTIBLE DEBENTURES (NCDS) WITH MATURITY PERIOD OF MORE THAN ONE YEAR BY HFCS – REVIEW OF GUIDELINES

It has been decided that the Guidelines on Private Placement of NCDs (with maturity more than one year) by NBFCs, as contained in para 58 of the Master Direction – Reserve Bank of India (Non-Banking Financial Company – Scale Based Regulation) Directions, 2023 (as amended from time to time) shall be applicable, mutatis-mutandis, to HFCs.
Accordingly, the existing guidelines under Chapter XI of Master Direction – Non-Banking Financial Company – Housing Finance Company (Reserve Bank) Directions, 2021 stand repealed. The revised guidelines shall be applicable to all fresh private placements of NCDs (with maturity more than one year) by HFCs from the date of this circular.

RBI Update – Private Placement of Non-Convertible Debentures (NCDs) with maturity period of more than one year by HFCs – Review of guidelines

RBI UPDATE – FRAMEWORK FOR IMPOSING MONETARY PENALTY AND COMPOUNDING OF OFFENCES UNDER THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

The Reserve Bank of India (RBI) has introduced a revised framework for imposing monetary penalties and compounding offences under the Payment and Settlement Systems Act, 2007 (PSS Act).Key Offences Under the PSS Act, 2007

Section 26 of the PSS Act details the offences that warrant penalties, including:

- Operating a payment system without authorization or failing to comply with authorization conditions.
- Providing false statements or omitting crucial information in applications or returns.
- Failing to submit required statements, information, or documents to the RBI.
- Unauthorized disclosure of prohibited information.
- Non-compliance with RBI directions, including failure to pay imposed penalties.
- Violations related to data storage, KYC/AML norms, and escrow account maintenance.

These contraventions affect the integrity and security of India's financial ecosystem, necessitating stringent regulatory oversight.

RBI's Powers to Impose Penalties
As per Section 30 of the PSS Act, RBI can levy fines up to ₹10 lakh or twice the amount involved in the contravention, whichever is higher. In cases of ongoing violations, an additional penalty of ₹25,000 per day may be imposed until the contravention ceases.

Compounding of Offences
The RBI is empowered under Section 31 of the PSS Act to compound certain contraventions, excluding offences punishable with imprisonment. Compounding allows violators to settle regulatory breaches without undergoing prolonged legal proceedings. This process applies to offences such as unauthorized disclosures, failure to submit documents, and non-compliance with regulatory directives.

Process for Imposing Monetary Penalties

1. Issuance of Show Cause Notice (SCN): Entities in violation receive an SCN outlining the alleged breach and proposed penalty.
2. Personal Hearing: Offenders can request a hearing to present their case.

Speaking Order:
The designated authority evaluates all evidence before issuing a final decision on penalties.

The quantum of penalty is determined based on proportionality, financial impact, and intent behind the contravention.

Procedure for Compounding Offences
Entities seeking compounding must submit an application to the RBI along with relevant documents. The RBI then examines the case, seeks additional information if required, and may conduct a personal hearing.
A final compounding order is issued within six months of receiving a complete application.

Consequences of Non-Payment
Failure to pay monetary penalties within 30 days can result in further regulatory action, including criminal proceedings and additional financial penalties. Non-payment of compounding fees nullifies the compounding benefit, making the violator liable for further legal consequences.

RBI Update – Framework for imposing monetary penalty and compounding of offences under the Payment and Settlement Systems Act, 2007

MCA UPDATE – COMPANIES (ACCOUNTS) SECOND AMENDMENT RULES, 2024

The Ministry of Corporate Affairs (MCA) has issued Notification dated December 31, 2024, announcing an extension of the CSR-2 filing deadline. Companies now have until March 31, 2025, to file their Corporate Social Responsibility (CSR) disclosures for the financial year 2023-2024.

MCA Update – Companies (Accounts) Second Amendment Rules, 2024

IBBI UPDATE – MANDATORY USE OF EBKRAY AUCTION PLATFORM FOR LIQUIDATION PROCESSES

All IPs handling liquidation processes are hereby directed to exclusively use the eBKray auction platform for conducting auctions for sale of assets during the liquidation process with effect from 1 st April 2025. It is further directed that listing of unsold assets in all ongoing liquidation cases shall be completed by 31st March 2025.

IBBI Update – Mandatory Use of eBKray Auction Platform for Liquidation Processes

IBBI UPDATE -INSOLVENCY AND BANKRUPTCY BOARD OF INDIA AMENDS THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS) REGULATIONS, 2016 AND INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (VOLUNTARY LIQUIDATION PROCESS) REGULATIONS, 2017

Auction Process

a. Prospective bidders are now given more time to participate in the auction process (from 14 days to about 30 days) by streamlining the verification process thereby facilitating wider participation.

b. The liquidator shall mention in the auction notice that the Earnest Money Deposit (EMD) of the successful bidder shall be forfeited if found ineligible during the auction process.

c. All prospective bidders must submit necessary documents, including a declaration of eligibility under Section 29A, as specified in the auction notice on the electronic auction platform or as mentioned in the auction notice.

d. The liquidator is required to verify the eligibility of the highest bidder (H1) within three days of the auction and consult the Stakeholder Consultation Committee (SCC) on the auction results.

e. If the highest bidder (H1) is found ineligible, the next highest eligible bidder (H2) may be considered, subject to consultation with the Stakeholder Consultation Committee.

Submission of final report:

Liquidators are now mandated to file the final report, including Form H, with the Adjudicating Authority when a scheme of compromise or arrangement under Section 230 of the Companies Act, 2013, is approved. Implementing this measure will improve accountability and regulatory oversight.

Corporate Liquidation Account and Corporate Voluntary Liquidation Account:
The IBBI will continue to manage the Corporate Liquidation Account and Corporate Voluntary Liquidation Account in a separate bank account with a scheduled bank as it has proven to be efficient in expeditious claim processing and overall fund management.

Realisation of uncalled or unpaid capital:
Voluntary Liquidation processes can now be completed even if there is uncalled capital as there are adequate safeguards already in the regulations to protect the creditors and the provisions for realisation of uncalled capital or unpaid capital contribution may only result in avoidable delays.

Filing of forms:
Insolvency Professionals are now required to submit the details related to liquidation and voluntary liquidation processes in the electronic forms available on IBBI's portal. To ensure timely submission it has been notified that filing delays will attract a late fee of ₹500 per form per calendar month from a date to be notified later.

Disclosure of tax deductions:
Regulations now require detailed disclosure of tax deductions by the liquidator before depositing unclaimed dividends and undistributed proceeds into the Corporate Liquidation Account or Corporate Voluntary Liquidation Account. Forms have been updated to include fields for tax deduction confirmation, applicable provisions, and reasons for unclaimed dividends or undistributed proceeds.

IBBI Update -Insolvency and Bankruptcy Board of India amends the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017

सत्यमेव जयते

भारतीय दिवाला और शोधन अक्षमता बोर्ड
Insolvency and Bankruptcy Board of India

IBC CASE LAWS: WHETHER WORKMEN ARE ENTITLED TO THE SALARY TILL INSOLVENCY COMMENCEMENT DATE IN CASE OF FACTORY LAYOFF/ CLOSED PRIOR TO COMMENCEMENT OF CIRP? – DRISH SHOES WORKERS UNION VS. DRISH SHOES LTD. THROUGH ITS RP – NCLAT NEW DELHI

Brief about the decision:

Facts of the case

- The Corporate Debtor was an industry where notice for lay off was issued on 31.07.2021 for 45 days' layoff. Subsequently, after the notice, the work could not be resumed and the industry remained closed.
- The CIRP of the Corporate Debtor commenced on 12.05.2022.
- After initiation of the CIRP, claims were filed by the Appellant; Workers' Union amounting to Rs.314,31,360/-.
- The Resolution Professional has calculated the salary till the layoff period and accordingly, admitted the claim to the tune of Rs.185,62,360/-.
- An IA No.2357 of 2023 was filed, where the Adjudicating Authority directed the Resolution Professional to re-examine the claim submitted by the Appellant within three weeks. In pursuance of the said order, the Resolution Professional again examined and reaffirmed the earlier calculation of Rs.1,85,62,360/-.
- Aggrieved by the said decision, IA NO.406/2024 was filed by the Appellant, which was rejected by the impugned order.

Decision of the Appellate Tribunal

- Non-computation of salary after lay off by the Resolution Professional cannot be faulted with since the Resolution Professional has no adjudicatory jurisdiction and the Adjudicating Authority has rightly observed that whether the Workers are entitled to claim their dues for the layoff period under provisions of Industrial Dispute Act is not in the domain of the Adjudicating Authority. The said view is clearly in accordance of law laid down in Era Labourer Union of Sidcul, Pant Nagar v. Apex Buildsys Ltd., (2024) ibclaw.in 599 NCLAT decided on 20.09.2024.

The Hon'ble Appellate Tribunal, thus, does not find any error in the order passed by the Adjudicating Authority warranting any interference. Appeal is dismissed.(p9)

IBC CASE LAWS: IF NO FUNDS ARE AVAILABLE, THE QUESTION OF KEEPING PROVIDENT FUND, GRATUITY FUND AND PENSION FUND OUTSIDE THE PURVIEW OF THE LIQUIDATION ASSETS DOES NOT ARISE – EMPLOYEES PROVIDENT FUND ORGANISATION VS. INCAB INDUSTRIES LTD. AND ANR. – NCLT KOLKATA BENCH

Brief about the decision:

Facts of the case

- The corporate debtor Incab Industries Ltd. was admitted into CIRP on 07.08.2019.
- On 21.10.2020, the Employees Provident Fund Organisation (EPFO), regional office Jamsedpur filed a claim of Rs. 164,63,21,103/- in Form C as mentioned in CIRP Regulation, 2016.
- On 05.11.2020, the Employees Provident Fund Organisation regional office Kolkata filed a combined claim of Rs. 192,68,96,086/- which includes dues payable to Jamsedpur office of EPFO as well as to the Kolkata office of EPFO.
- On 16th November, the EPFO office, Jamsedpur again filed a claim of Rs. 164,63,21,160/- and on the very next day the resolution professional communicated to the applicant that he is not in a position to accept further new claims from the creditors as they have already received resolution plan from the prospective applicants.
- In spite of this communication again on 22.06.2022, the Employees Provident Fund Organisation, Kolkata office had requested the resolution professional to release
- the combined claim of Jamsedpur and Kolkata to the tune of Rs. 192,68,96,086/-.
- This application has been preferred under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 by Employees Provident Fund Organisation (Applicant) against Incab Industries Limited & Ors. (Respondents/Corporate Debtor)

Decision of the Adjudicating Authority

- The Hon'ble Adjudicating Authority relies on:
- Jet Aircraft Maintenance Engineers Welfare Association Vs. Ashish Chhawchharia, Resolution Professional of Jet Airways (India) Ltd. & Ors. reported at (2022) ibclaw.in 861 NCLAT
- Sunil Kumar Jain and Ors. vs. Sundaresh Bhatt and Ors. reported in (2022) ibclaw.in 23 SC

IBC CASE LAWS: CAN A JUDGMENT WHICH HAS BEEN SET ASIDE ON BASIS OF THE SETTLEMENT WITHOUT ENTERING INTO THE MERITS OF THE ISSUES, BE RELIED? | IS IT NECESSARY FOR NCLT TO SEPARATELY CONSIDER ANY OBJECTION REGARDING MAINTAINABILITY WHILE DECIDING AN APPLICATION UNDER SECTION 7 OF IBC? – PIONEER URBAN LAND & INFRASTRUCTURE LTD. VS. PRESIDIA ARAYA RESIDENTS WELFARE ASSOCIATION – NCLAT NEW DELHI

Brief about the decision:

Facts of the case

- An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 was filed by Respondent praying for initiation of the CIRP against the Corporate Debtor.
- The Adjudicating Authority directed the parties to address the submissions on maintainability of the application, since one of the objections which was raised by the Corporate Debtor was regarding maintainability of the Application.
- Both the parties also filed their Written Submissions in Section 7 Application.
- Adjudicating Authority by the Impugned Order has held the Application maintainable and directed the matter to be listed on 23.01.2025 for further consideration.

Contentions of the parties

- Learned Counsel for the Appellant submits that when the Adjudicating Authority was considering the question of maintainability on the application, other issues were not required to be considered including the nature of debt involved in Section 7 Application.
- Learned Counsel for the Respondent submits that since the Corporate Debtor raised the question of maintainability, Adjudicating Authority gave ample opportunity to both the parties to address and the Adjudicating Authority has proceeded to decide the Application on basis of pleadings and arguments raised by the parties before the Adjudicating Authority, hence, no error can be said to have been committed by the Adjudicating Authority in passing the Impugned Order.

Decision of the Appellate Tribunal

A. Is it necessary for NCLT while deciding an Application under Section 7 to separately consider any objection regarding maintainability?

- Although, it is not necessary for the Adjudicating Authority while deciding an Application under Section 7 to separately consider any objection regarding maintainability and Adjudicating Authority can proceed to examine the said question while finally deciding the Section 7 Application or may proceed to decide it separately as has been done in the present case.
-

B. Can a judgment which has been set aside on basis of the settlement, be relied?

- It is submitted that one of the judgments which has been relied by the Adjudicating Authority in Vipul Greens Residents Welfare Association v. Vipul Ltd., the said Judgment was subsequently set aside by the Hon'ble Supreme Court in Punit Beriwala v. Vipul Greens Residents Welfare Association and Anr., reported in although, on basis of the settlement, but the Judgment could not have been relied for any proposition.
- The last line of Order indicates that NCLT Order is set aside. From the aforesaid, it appears that Hon'ble Supreme Court did not enter into the merits of the issues raised and decided by the NCLT but Order having been set aside, the said Order could not have been relied by the Adjudicating Authority.

IN THE EVENT THAT THE NATURE OF THE RELATIONSHIP BETWEEN THE OPERATIONAL CREDITOR AND THE CORPORATE DEBTOR IS THAT OF 'JOINT SUPPLIERS,' THE OPERATIONAL CREDITOR DOES NOT QUALIFY AS AN OPERATIONAL CREDITOR WITHIN THE MEANING OF SECTION 5(20) OF THE IBC – TRANSLINE TECHNOLOGIES LTD. VS. EXPERIO TECH PVT. LTD. – NCLT NEW DELHI BENCH

Brief about the decision:

Facts of the case

- This is a Company Petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 by M/s. Transline Technologies Ltd. (Operational Creditor) for initiation of CIRP against M/s Experio Tech Pvt. Ltd. (Corporate Debtor).
- The Operational Creditor is engaged in the business of electronic items, biometric equipments, its peripherals and IT related business solutions and renders services in ICT/Biometric system related projects across the country, whereas, the Corporate Debtor is engaged in software and hardware related to IT and electronics, supply and installation, etc.
- The Applicant supplied IT related electronics equipments to Experio Tech Pvt. Ltd. and in this regard raised 5 invoices dated 23.10.2021, 16.11.2021, 16.11.2021, 03.12.2021 and 10.12.2021, respectively totally amounting to Rs. 5,34,92,510/-.

Decision of the Adjudicating Authority

- An agreement in the form of MoU dated 03.09.2021 was entered into between the Applicant (Operational Creditor) and the Corporate Debtor.
- The Experiotech (Corporate Debtor) had to carry out its sale to the third parties by procuring raw materials and other required commodities from the Transline (Operational Creditor) only, which implies that the Transline (Operational Creditor) was conferred with the monopoly to carry out supplies to Experiotech (Corporate Debtor).

The Transline (Operational Creditor) and the Experiotech (Corporate Debtor) together undertook to make supplies to the third parties by their joint efforts, which denotes that the nature of the business entered into between the Applicant (Operational Creditor) and the Corporate Debtor appears to be that of an integrated business unit.

- Furthermore, in order to carry out its sale, the Corporate Debtor had to promptly give authorization, provide documentation, signatures and co-operate in every manner as and when required by Transline (Operational Creditor) for any tender, which denotes that both the Applicant (Operational Creditor) and the Corporate Debtor had their joint responsibilities in order to carry out the accomplishment of the sale of the final products by the Experiotech (Corporate Debtor).
- The nature of transactions entered into between the Applicant (Operational Creditor) and the Corporate Debtor were not that of the debtor and the creditor. Alternately, both the Applicant (Operational Creditor) and the Corporate Debtor had agreed to share the profits in equal proportion out of the profits made from the sale of the supplies made by the Experiotech (Corporate Debtor) which again indicates that the Applicant (Operational Creditor) and the Corporate Debtor jointly undertook the assignment of carrying out supplies to the third parties.
- In this regard, reliance is placed upon the decision of the Hon'ble NCLAT in the matter of *Prashanth Shekara Shetty Designated Partner of Abmay Health Ventures LLP Vs. Alcuris Healthcare Pvt. Ltd. NCLAT*.
- Pertaining to the aforesaid terms of the Agreement dated 03.09.2021, it is observed that the Transline (Operational Creditor) and the Experiotech (Corporate Debtor) jointly undertook to carry out the supplies being made to the third parties through Experiotech (Corporate Debtor). The Transline (Operational Creditor) would supply the raw material to the Experiotech (Corporate Debtor). The Experiotech (Corporate Debtor) shall manufacture all equipments by sourcing all parts exclusively from Transline (Operational Creditor). Similarily, Experiotech (Corporate Debtor) shall supply/sell all finished products whether inside the country or outside the country, exclusively through Transline (Operational Creditor). Further, the Transline (Operational Creditor) and the Experiotech (Corporate Debtor) agreed to share the profits out of the sale in the equal proportion.
- Therefore, in view of the observations made hereinbefore, the Hon'ble Tribunal is of the view that the nature of relation entered into between the Applicant (Operational Creditor) and the Corporate Debtor is that of the 'joint suppliers' and the Applicant (Operational Creditor), does not qualify to be considered as the 'Operational Creditor' within the meaning of Section 5(20) of the Code.

- In the light of the above observations and the decision of the Hon'ble NCLAT in the matter of Prashanth Shekara Shetty (supra), the Hon'ble Tribunal is of the view that the basic ingredient of the Section 9 of the Code that the Applicant (Operational Creditor) must qualify to be termed as the 'Operational Creditor' in terms of the Section 5(20) of the Code is not met with. Therefore, instant application filed by the Applicant (Operational Creditor) is liable to be dismissed.
- Accordingly, the instant application bearing CP (IB) No. 236/ND/2023 filed by, M/s Transline Technologies Ltd., (Operational Creditor), under section 9 of the Code for initiating CIRP against M/s Experio Tech Pvt. Ltd. (Corporate Debtor) stands dismissed.

WHETHER A STATE FINANCIAL CORPORATION, AFTER LIQUIDATION OF A COMPANY AND RECEIVING ITS SHARES AS A SECURED CREDITOR, HAS ANY RIGHT TO PROCEED AGAINST THE COMPANY, ITS PROMOTERS AND GUARANTORS FOR RECOVERY OF BALANCE LOAN AMOUNT? – TAMIL NADU INDUSTRIAL INVESTMENT CORPORATION LTD. (TIICL) VS. PULSAR ELECTRONICS LTD. AND ORS. – MADRAS HIGH COURT

Brief about the decision:

Facts of the case

- The petitioner herein, the Tamilnadu Industrial Investment Corporation Limited (TIIC), is a Public Financial Institution incorporated under the Companies Act and governed by the provisions of the State Financial Corporations Act, 1951.
- M/s. Pulsar Electronics Ltd. (Company/ 1st Respondent) availed the loan from TIIC on 30.04.1987.
- Due to default, the mortgaged land and building were taken into possession by the petitioner/TIIC on 10.03.1994.
- After taking possession of the property by exercising power under Section 29 of the State Financial Corporations Act, 1951, the petitioner/TIIC could not proceeded further to auction the property for recovery.
- In the meantime, Company Petition No.5 of 1994 filed and allowed on 04.03.2009.
- The Official Liquidator had sold the mortgaged property and paid Rs.55 lakhs to the petitioner/TIIC. This amount been given credit into the loan account of first respondent.
- The petitioner, claiming a sum of Rs.12,18,39,232.60/- as balance amount on 18.09.2011 after giving credit to the remittance made by the 1st respondent/Company, including the receipt of Rs.55,00,000/- from the Official Liquidator, has preferred the present petition under Section 31(a), 31(aa) and 32 of the State Financial Corporations Act 1951.

Contentions of the parties

The Learned Counsel appearing for the petitioner/TIIC contended that under Sections 31(a) & 31(aa) of the State Financial Corporations Act, the right of the Corporation to proceed further for recovery even after the liquidation of the borrowing Company will survive. Section 31 of the State Financial Corporations Act, 1951 gives right to the State Financial Corporation to proceed against the guarantor independently, even after discharging the principal debtor.

- The petitioner herein, the Tamilnadu Industrial Investment Corporation Limited (TIIC), is a Public Financial Institution incorporated under the Companies Act and governed by the provisions of the State Financial Corporations Act, 1951.
- M/s. Pulsar Electronics Ltd. (Company/ 1st Respondent) availed the loan from TIIC on 30.04.1987.
- Due to default, the mortgaged land and building were taken into possession by the petitioner/TIIC on 10.03.1994.
- After taking possession of the property by exercising power under Section 29 of the State Financial Corporations Act, 1951, the petitioner/TIIC could not proceeded further to auction the property for recovery.
- In the meantime, Company Petition No.5 of 1994 filed and allowed on 04.03.2009.
- The Official Liquidator had sold the mortgaged property and paid Rs.55 lakhs to the petitioner/TIIC. This amount been given credit into the loan account of first respondent.
- The petitioner, claiming a sum of Rs.12,18,39,232.60/- as balance amount on 18.09.2011 after giving credit to the remittance made by the 1st respondent/Company, including the receipt of Rs.55,00,000/- from the Official Liquidator, has preferred the present petition under Section 31(a), 31(aa) and 32 of the State Financial Corporations Act 1951.
- The Learned Counsel appearing for the 6th and 7th respondents who stood personal Guarantee and Corporate Guarantee respectively, contended that the Guarantees were executed when they were the shareholders of the 1st respondent company. After transferring their shares to the 2nd respondent, they were neither Directors of the Company nor persons interested in the Company. The guarantee issued got terminated once they got released from the 1st respondent Company. Even otherwise, the initial guarantee executed was never been renewed subsequently. The petitioner/TIIC though took possession of the properties mortgaged by the 1st respondent as early as in the year 1994 had not proceeded further for recovery as contemplated under Section 29 of the State Financial Corporations Act. After liquidation of the 1st respondent Company and the distribution of its assets pro rata to the creditors, 1st respondent Company was absolved from all liabilities. The petitioner/TIIC, after absolving the principal creditor, cannot proceed against the personal guarantor or the Corporate guarantor.

Questions

- Whether the petitioner/TIIC, after liquidation of the 1st respondent Company and receiving its shares as a secured creditor, has any right to proceed against the Company, its promoters and guarantors for recovery of balance loan amount?

- Whether the claim is barred by limitation?

Decision of the High Court

- Nowhere in Deed of Guarantee that the extent of liability is restricted, either in terms of the amount or in terms of the period. Therefore, the contention of the respondents that the deed of guarantee has become redundant after transfer of the shares in favour of the 2nd respondent is baseless and unsustainable. The deed of guarantee executed by the 6th respondent on behalf of the 7th respondent clearly states that, if the guarantor wants of transfer the Guarantor it should be in writing with one month prior notice. It is not the case of the respondents that they put the petitioner/TIIC advance notice of one month to transfer the guarantor and same was acted upon. It is an unilateral action of the 6th and 7th respondents, who claims that they have transferred their shares held in the 1st respondent company and intimated it to the petitioner/TIIC. Therefore, the deed of guarantee (Ex.P.5) has come to an end. This contention cannot be countenanced since the recital found in Ex.P.5 clearly indicates that the guarantee will get terminated only on discharge of the debt by the principal borrowing.
- In *Orissa State Financial Corporation vs Ramesh Chandra Behera And Anr.* (22.03.2002), which is relied by the respondents Counsel, it is held that liability of a surety is coextensive with that of the principal debtor and the decree can be executed either against the principal debtor or the surety, at the discretion of the creditor. However, where the surety is made to discharge such liability of the principal debtor, such surety has got a right to reimburse by the principal debtor. It is the principle of subrogation been applied both in the judgment of Orissa High Court referred above and the judgment of the Hon'ble Supreme Court in *BRS Ventures Investments Ltd. v. SREI Infrastructure Finance Ltd. and Anr. (2024)*
- Section 31 of the State Financial Corporations Act, 1951 is in addition to the right conferred on the Finance Corporation in case of default, as contemplated under Section 29 of the State Financial Corporation Act, 1951.
- The liability of the Company is limited but its Directors can be held personally liable if they have indemnified the Bank for the default of the Company. The personal guarantee given by the Directors of Corporate debtors and third parties will not get extinguished till the liability is discharged. As held *Deepak Bhandari v. Himachal Pradesh State Industrial Development Corporation Ltd. (2015) 5 SCC 518*, merely because State Financial Corporations proceeded under Section 29, the indemnity will not come to an end.

- Peculiarly, in the present case, the petition for recovery is filed both against the principal borrower and the Guarantor. The conduct of the petitioner, any demure or protest or reservation do not extinguishes its right or remedy against the principal debtor or the guarantors. After exhausting its right against the property mortgaged by the principal debtor, the TIIC had proceed against the borrowing Company and the Guarantor since the liability of the borrower not fully satisfied.
- On the facts and the precedent referred above, it is substantially clear that the State Financial Corporation can proceed under Section 31 of the Act The liquidation of the first respondent Company is an involuntary act of the principal debtor and the creditor. Therefore, the loss of mortgaged property no way will absolve the guarantors.
- For the reasons stated above, the Hon'ble High Court finds that the respondents are liable to pay the petitioner the amount mentioned in the petition and as prayed. Hence, the Original Petition is allowed with costs.

RD REDUCES ROC PENALTY ON COMPANY AND ITS DIRECTORS, CITING NO WILLFUL VIOLATION OR INJURY TO PUBLIC INTEREST

Background of the case

1. This is a case in which the Registrar of Companies / Adjudication Officer of Bangalore passed vide his adjudication
order no. RoC/ (B)/Adj/order 454-170/JK Steel works/Co.No. 050503/ 2024 dated 24th May 2024 – order for adjudication of penalty under section 454 of the Companies Act 2013 read with Rule 3 of the Companies (Adjudicationof Penalty) Rules 2014 for violation of provisions of section 170 (as amended from time to time) framed therein by M.s Jai Shree Krishna Steels Works Private Limited. Against the order of the Registrar of Companies of Bangalore, the company filed an appeal challenging the penalty of Rs. 5 lakh levied, before the Regional Director (Southern EasternRegion) Ministry of Corporate Affairs, Hyderabad. Upon hearing the appeal, the Regional Director slashed the penalty amount from Rs.5 lakh to Rs.1.80 lakh on the basis of his observations that the factory premises of the company which consists registered office of the company was in the possession of Asset Reconstruction Company (ARC) – taken over by them under the SARFAESI Act. During such time, the company could not produce the statutory registers as demanded by the Registrar of Companies. This is an interesting case law wherein many judiciary judgements has been quoted as precedence for considering the penalty with a lenient view and let us go through this case in threadbare in order to understand the rationale behind the reduction in penalty granted by the Regional Director vis-à-vis the default committed by the company.

Details of the company

2. M/s Jai Shree Krishna Steels Works Private Limited was incorporated on 28th July 2009 under the provisions of the Companies Act 1956 and the company falls under the jurisdiction of Registrar of Companies, Karnataka and the office of the Registrar is situated at Bangalore. This company has its registered office situated at 565-A, KIADB Industrial Area, Samudravalli Hobli Shanthigrama, Hassan in the state of Karnataka. The company, as per the details shown at the MCA portal has two directors on its board. M/s. Jai Shree Krishna Steel Works Private Limited is a company that manufactures metals and chemicals and products thereof.

Default committed by the company

3. The Registrar of Companies while carrying out his inspection under section 206 of the conduct noticed that the company, it was found that the company did not maintain the statutory registers (the register of directors and key managerial personnel and their shareholding) required to be maintained under section 170 of the Companies Act 2013. The company informed the inspecting officials that the premises were taken over by the Asset Reconstruction Company and hence the company could not produce the above register. However, the company could not produce any evidence on this matter.

Penalty levied by Registrar of Companies / Adjudication Officer

4. The Registrar of Companies / Adjudicating Officer, having considered the facts and circumstances of the case and considering the submissions made by the company / directors / through their authorized representative at the time of personal hearing, passed the order of adjudication for the violation of section 170 of the Companies Act 2013, in exercise of the power vested on him under section 454(3) of the Companies Act 2013 and imposed the penalty in the following manner on the company and its officers in default during the period of offence committed.

Sr. No.	**Violation committed by the company**	**Penalty imposed on company / officers**	**Penalty Imposed Rupees**
1	Section 170 of the Companies Act 2013 – non maintenance of register of directors and KMP	Company	3,00,000
2		Director -1	1,00,000
3		Director -2	1,00,000
		Total Penalty	5,00,000

Appeal filed by the company.

5. The adjudication order was passed by the Registrar of Companies, Bangalore on 24th May 2024 on this matter. As per provisions of section 454(6), an appeal under sub-section (5) of section 454 was to be filed within a period of 60 days from the date of which the copy of the order made by the adjudicating officers was received by the aggrieved person.7

The company had filed an appeal under Section 454 (5) of the Companies Act, 2013 in Form ADJ on 22nd July 2024.
On examination of the Application/Appeal it was seen that the said appeal was filed within sixty days from date of
passing adjudication order by the Registrar of Companies, Bangalore in terms of provisions of section 454(6) of the
Companies Act 2013.

Action taken by the Regional Director

6. Upon receipt of the appeal petition, the Regional Director called for the report from the Registrar of Companies of Bangalore on this matter

Response from the Registrar of Companies

7. The Registrar of Companies submitted his detailed report to the Regional Director on this matter on 27th August 2024.

Personal hearing

8. Upon receipt of the appeal and also after having received the report from the Registrar of Companies of Bangalore, the Regional Director granted an opportunity of being heard and the personal hearing and the personal hearing date was fixed as on 10th October 2024 and accordingly the company and its directors were asked to be present for the personal hearing before the appeal was being heard.

The day of the personal hearing

9. M/s. Jai Shree Krishna Steels Works Private Limited and the concerned director had appointed an authorized representative – a practicing company secretary - who had appeared on behalf of the company and its director and represented the matter and made the submissions on the day of personal hearing i.e. on 10th October 2024

(a) The learned practicing company secretary during the personal hearing reiterated the grounds already taken while filing the appeal and made the following further submissions.

(b) The learned practicing company secretary submitted that the company in question was a closely held company with two promoters whoa were the directors of the company who were father and son.

(c) The practicing company secretary stated that the South Indian Bank had sanctioned term loan to the company for setting up mini steel plant etc., and also sanctioned further term loan in the year 2012 for the purpose of purchasing machinery and fixed assets.

(d) The practicing company further stated, due to default in repayment of the loan, the South Indian Bank assigned the company's assets which was a security for the loan to the Asset Reconstruction Company (ARC) i.e. M/s. Phoenix ARC Private Limited.

(e) The practicing company secretary brought to the notice of the Registrar of Companies that the ARC had taken the possession of the company premises including the factory and the registered office of the company under SARFAESI Act and the possession stilled continued to be with the ARC company.

(f) The practicing company secretary submitted that during the course of inspection by the Register of Companies officials, they could not find the statutory register as per the provisions of section 170 (a) of the Companies Act 2013 and therefore they came to a conclusion that the company had not been maintaining the same.

(g) The practicing company secretary explained that the possession of the premises was with the ARC company, they could not produce the register in question and that the violation was neither wilful nor wanton and also no injury had been caused to public interest and the company had been facing financial losses in the previous years.

(h) The practicing company secretary submitted the possession notice dated 19th June 2018 issued by the ARC company in support of his submissions.

With the above submissions, the practicing company secretary requested the Appellate Authority to reduce the penalty
imposed by the Registrar of Companies and had further submitted that the Appellate Authority was empowered to reduce the penalty imposed by the adjudicating authority in view of the provisions of section 454(7) of the Companies Act 2013 and had submitted the copies of the appeal orders passed by the other Regional Directors dated 5th July 2024 and 31st July 2024 in the matter of M/s Mukka Proteins Limited, M/s. SVR Spinning Mills Limited and M.s Aura Hotels & Resorts Private Limited respectively as a precedent.

Citations of judgements copies produced during the hearing.

9.1 The learned practicing company secretary produced copies of the citations of the following orders in support of seeking the reduction of the penalty and for lenient consideration of this case.

Sr. No	Case title	Details
1	Chairman SEBI v/s Roofit Industries Ltd	In this case, the Honourable Supreme Court has held that where circumstances so warrant, the penalty may be waived off completely may assign a penalty less than the so-called minimum. Thus, the adjudication of penalties might be expected to be more commensurate with the gravity of the offence
2	Adjudication Officer SEBI v/s Bhavesh Pabari	In this case the Honourable Supreme Court held that "we would hold the legislative indent was not to prescribe minimum mandatory penalty of Rs 1lakh per day during which the default and failure had continued. We would prefer to read and interpret section 15A(a) as giving discretion to the Adjudicating Officer to impose minimum penalty of Rs 1 lakh subject to maximum of Rs. 1 crore keeping in view the period of default as well aggravating and mitigating circumstances including those specified in section 15J of the SEBI Act".
3	Siddharth Chaturvedi V/s SEBI	In this case, it had provided that by prescribing a minimum penalty was not to curtail the direction of the Adjudicating Officer. However, normally the expression "whichever is less" connote absence of discretion, but in context of the amendment in section 15 A, the legislative intent was not to prescribe minimum mandatory penalty. However, the same provided discretion to the Adjudicating officer to impose minimum penalty of Rs 1 lakh subject to maximum penalty of Rs. 1 crore.
4	Commissioner of Income Tax V/s. Harsiddh Constructions Private Limited (14th November 1999)	In this case it was held that: - "penalty will not be also imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised and on the consideration of all the relevant circumstances. Even if a minimum penalty is prescribed. the authority is competent to impose the penalty. will be justified in refusing to impose the penalty, when there is a technical or venial breach for the provisions of the Act where the breach flows from the bona-fide belief that the offender is not liable to act in the manger prescribed by the statue'.

5	H.P v/s Nirmala Devi (10th April 2017)	In this case, it was held by the Honourable Supreme Court that "the cardinal of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed, and it should be proportionate to the gravity of the offence. This court has repeatedly stressed the central role of proportionately in sentencing of offenders in numerous cases".
6	M.P V/s Najab Khan and Ors (4) - 1st July 2013	In this case, it was held that "it is settled principle of law that the punishment should meet the gravity of the offence committed by the accused and Courts should not show undue sympathy with the accused persons. This court has repeatedly stressed the central role of proportionately in sentencing of offenders in numerous cases".

Conclusions reached by the Regional Director

10. After taking considerations of the facts of the appeal and the submissions made by the authorized representative on behalf of the company and its directors the Regional Director deemed fit if the penalty imposed by the Registrar of Companies was reduced to Rs. 60,000 each for the company and its two directors – total aggregating to Rs. 1,80,000. Accordingly, the Regional Director passed the order as per details given below.

Order passed by the Regional Director

11. The Regional Director after allowing the appeal revised the penalties imposed by the Registrar of Companies, Bangalore on 24th May 2024 on this matter and the penalty imposed by the Registrar of Companies was reduced to Rs. 1.80 lakh from Rs 5. lakhs in all for the company and its two directors based on the conclusions reached by the Regional Directors as stated in the earlier paragraph. The order passed by the Regional Director shows below in the table in respect of the company and its directors – table below.

Sr. No.	Penalty imposed on company / officers	Details of Penalty	
		Imposed by the Registrar	Revised by the Regional Director
		Rupees	Rupees
1	Company	3,00,000	60,000
2	Director -1	1,00,000	60,000
3	Director -2	1,00,000	60,000
Total penalty		5,00,000	1,80,000

(a) The order directed the company and its directors to comply with this order.
(b) The order also drawn the attention of the provisions of section 454(8) of the Companies Act 2013 read with Companies (Adjudication) Rules 2014 in case of non-compliance.

Compliance with the order issued by the Regional Director

12. The company and its directors complied with the order issued by the Regional Director and made the payment of penalty imposed and communicated the same to the office of the Regional Director.

Issue and despatch of the order by the Regional Director

13. in view of the compliance reported, the Regional Director accordingly disposed off the appeal and issued the order dated 20th November 2024 to the company and its directors with a copy to the Registrar of Companies of Bangalore. Further a copy of the order was also sent to e-governance cell, Ministry of Corporate Affairs at Delhi for information and necessary action.

Complete order for reading

14. The readers may like to read the complete details of the order in appeal passed by the Regional Director (Southern Eastern Region) Hyderabad on 20th November 2024 order bearing no.

F. No 9/32/ADJ/Sec-170 of CA 2013/ Karnataka/ RD (SER) /2024 in the matter of Companies Act 2013/ 4699 and in the matter M/s Jai Shree Krishna Steels

Works Private Limited and the relevant website is https://www.mca.gov.in/content/mca/global/en/data-and-reports/rd-roc-info/rd-adjudication -orders.html (the order uploaded under RD - South East on 10th December 2024 and the file name titled as adjudication order for violation of section 170 of the Companies Act 2013 in the matter of M/s Jai Shree Krishna Steels Works Private Limited).

The readers may also like to read the order of adjudication passed by the Registrar of Companies of Bangalore on 24th May 2024 order bearing no. F.No.ROC/B/Adj.order/454-170/JSK Steel Works/Co,no.050503/2024 order for adjudication under section 454 of the Companies Act 2013 read with Rule 3 of the Companies (Adjudication for Penalties) Rules 2014 for violation of provisions of section 170 (as amended from time to time) framed therein by M/s Jai Shree Krishna Steels Works Private Limited at the MCA website at https:// www.mca.gov.in/ content/ mca/ global/en/ data-and-reports/ rd-roc-info /roc-adjudication-orders.html (the order uploaded under ROC of Bangalore on 231st July 2024 titled as adjudication order for violation of section 170 of the companies Act 2013 in the matter of M/s Jai Shree Krishna Steels Works Private Limited)

Conclusion

15. Appeal against the adjudication order passed by the Registrar of Companies could be made by any of the aggrieved person by the order as per the provisions of section 454 (5) of the Companies Act 2013. Such appeals are required to be made to the Regional Director having jurisdiction in the matter within a period of 60 days from the date of copy of adjudication order is received by the aggrieved person.

In the instant case, the Regional Director of South Eastern Region Hyderabad decided the appeal to reduce the penalties imposed by the Registrar of Companies to Rs, 1.80 lakh from Rs.5 lakh. after carefully considering the grounds taken by the company and its director and also with refence to cited case laws from the past judgments as a precedent. In this case, the company and its directors had a valid reason which proved that the violation in question was not at all intentional and the circumstances were such the company could not fulfil its obligations as discussed in detail in the case law. Further the authorized representative also cited many case laws in support of his point while seeking the reduction in the penalty.

Ultimately, the Regional Director reduced the penalty imposed by the Registrar of Companies from R. 5 lakh to Rs. 1,80 lakhs.

Reference: -

1. Companies Act 2013
2. Companies (Adjudication of Penalties) Rules 2014
3. Companies (Adjudication of Penalties) Amendment Rules 2019
4. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act)
5. Adjudication order passed by the Registrar of Companies, Bangalore bearing order no. F.No.ROC/B/Adj.order/454-170/JSK Steel Works/ Co. no.050503/2024 order for adjudication under section 454 of the Companies Act 2013 read with Rule 3 of the Companies (Adjudication for Penalties) Rules 2014 for violation of provisions of section 170 (as amended from time to time) framed therein by M/s Jai Shree Krishna Steels Works Private Limited
6. Appeal order passed by the Regional Director (South Eastern Region) Hyderabad dated 20th November 2024 order bearing no. F. No 9/32/ADJ/Sec-170 of CA 2013/ Karnataka/ RD (SER) /2024 in the matter of Companies Act 2013/ 4699 and in the matter M/s Jai Shree Krishna Steels Works Private Limited

AWARD AND RECOGNITION

We are thrilled to share that we are recognized as the **CSR Consultant of the Year** at the Bharat CSR & Sustainability Summit held on January 16, 2025!

A huge thank you to the organizers of the Summit, the esteemed jury, and everyone for this recognition.

In the last years, we have conducted training sessions & webinars on CSR, Due diligence of the NGOs, provided opinions on complex matters and much more.

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